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COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

THE PEOPLE,

Plaintiff and Respondent,

v.

JASON MADRID,

Defendant and Appellant.

D055130

(Super. Ct. No. SCS224191)

APPEAL from a judgment of the Superior Court of San Diego County, H. Ronald Domnitz, Judge. (Retired Judge of the San Diego Sup. Ct. assigned by the Chief Justice pursuant to art. VI, § 6 of the Cal. Const.) Affirmed.

In November 2008 Jason Madrid entered a negotiated guilty plea to possessing marijuana for sale (Health & Saf. Code, § 11359, subd. (a)) and the court placed him on three years' probation. In March 2009 Madrid filed a motion to withdraw the plea, contending counsel did not advise him correctly concerning the immigration consequences of the plea. In April the court denied the motion. Madrid appeals. We affirm.

## BACKGROUND

Madrid possessed 119 pounds of marijuana for sale.

## DISCUSSION

Appointed appellate counsel has filed a brief summarizing the facts and proceedings below. Counsel presents no argument for reversal, but asks this court to review the record for error as mandated by *People v. Wende* (1979) 25 Cal.3d 436. Pursuant to *Anders v. California* (1967) 386 U.S. 738, counsel lists, as possible but not arguable issues, whether Madrid's guilty plea was constitutionally valid, whether the court abused its discretion by denying his motion to withdraw the plea, whether any issues related to the plea's validity or the denial of the motion can be raised on appeal, whether the court abused its discretion in sentencing Madrid, and whether this appeal is timely as to sentencing issues.

We granted Madrid permission to file a brief on his own behalf. He has responded with the following contentions. He pleaded guilty to possessing marijuana for sale rather than to transporting marijuana (Health & Saf. Code, § 11360) because he did not know the latter offense "would be more lenient with the immigration court." His attorney told him that pleading guilty to transportation was "worse." She advised him that he "would only do one day per pound with only doing half that time." She told him to initial and sign the change of plea form but did not explain the form. When the court asked Madrid if he understood the consequences of the plea, he said "yes" because he was being advised by counsel. Madrid is now in immigration custody and facing deportation.

Because the trial court denied Madrid's request for a certificate of probable cause, he may not raise in this appeal the above issues concerning the validity of his guilty plea and the effectiveness of counsel. (Pen. Code, § 1237.5; *People v. Mendez* (1999) 19 Cal.4th 1084, 1095-1099; *People v. Johnson* (Nov. 23, 2009, No. S166894) \_\_ Cal.4th \_\_ [2009 D.A.R. 16445, 2009 WL 4017172].) Madrid's remedy for any possible ineffective assistance of counsel is by way of a petition for writ of habeas corpus filed in the trial court. (*People v. Johnson, supra*, \_\_ Cal.4th at p. \_\_, citing *People v. Mendoza Tello* (1997) 15 Cal.4th 264, 266-267.)

A review of the record pursuant to *People v. Wende, supra*, 25 Cal.3d 436 and *Anders v. California, supra*, 386 U.S. 738, including the possible issues listed pursuant to *Anders v. California, supra*, 386 U.S. 738, has disclosed no reasonably arguable appellate issues. Madrid has been competently represented by counsel on this appeal.

#### DISPOSITION

The judgment is affirmed.

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HUFFMAN, J.

WE CONCUR:

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McCONNELL, P. J.

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AARON, J.